

continue the hearing from day to day or adjourn such hearing to a later date or to a different place by announcement at the hearing or by other appropriate notice. When determining whether to grant a continuance, the Administrative Law Judge gives careful consideration to the future availability of witnesses, the schedule of the vessel or vessels on which the respondent and/or witnesses may be employed, and to the nature of the charge and gravity of the offense.

§ 5.513 Appearances.

The appearances of the investigating officer and respondent and their representatives are entered in the record.

§ 5.515 Failure of respondent to appear at hearing.

(a) In any case in which the respondent, after being duly served with the original of the notice of the time and place of the hearing and the charges and specifications, fails to appear at the time and place specified for the hearing, the hearing may be conducted *in absentia*.

(b) The Administrative Law Judge ensures that the record contains the facts concerning the service of the charges, specifications and notice of hearing.

§ 5.517 Witnesses excluded from hearing room.

After appearances are entered and prior to proceeding with the hearing, all witnesses are excluded from the hearing room. The Administrative Law Judge may order witnesses to be separated from each other while waiting to testify or admonish them to not discuss the case among themselves or with any other person, with the exception of the investigating officer, the respondent or the respondent's counsel.

§ 5.519 Rights of respondent.

(a) The Administrative Law Judge advises the respondent, on the record, of the right to:

- (1) Be represented by professional counsel, or any other person desired;
- (2) Have witnesses and relevant evidence subpoenaed;

(3) Examine witnesses, cross-examine witnesses, and introduce relevant evidence into the record; and

(4) Testify or remain silent.

§ 5.521 Verification of license, certificate or document.

(a) The Administrative Law Judge shall require the respondent to produce and present at the opening of the hearing, and on each day the hearing is in session thereafter, all valid licenses, certificates, and/or documents issued by the Coast Guard to the respondent. In the event that the respondent alleges that such license, certificate or document has been lost, misplaced, stolen, destroyed, or is otherwise beyond his ability to produce, the respondent shall execute a lost document affidavit (Form CG-4363). The Administrative Law Judge shall warn the respondent that a willful misstatement of any material item in such affidavit is punishable as a violation of a federal criminal statute. (See 18 U.S.C. 1001).

(b) When a hearing is continued or delayed, the Administrative Law Judge returns the license, certificate, or document to the respondent: unless a prima facie case has been established that the respondent committed an act or offense which shows that the respondent's service on a vessel would constitute a definite danger to public health, interest or safety at sea.

§ 5.523 Motions or objections.

Any motion or objection shall be heard and disposed of, on the record, by the Administrative Law Judge.

§ 5.525 Correction or amendment of charges and/or specifications.

(a) The Administrative Law Judge examines the charges and specifications to determine their correctness as to form and legal sufficiency.

(b) The Administrative Law Judge may, either on the Administrative Law Judge's own motion or motion by either the investigating officer or respondent, amend the charges and specifications to correct harmless errors by deletion or substitution of words or figures as long as a legal charge and specification remains.

(c) When errors of substance are found in charges and specifications, the